92-978

Supreme Court, U.S.
FILED
OCT 13 1992
OFFICE OF THE CLERK

CASE NO.: _____

IN THE

SUPREME COURT

OF THE

UNITED STATES

OCTOBER TERM, 1992

RACHEL KAMIL

Petitioner/Appellant,

vs.

UNITED STATES OF AMERICA,

Respondent/Appellee

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

ALVIN E. ENTIN, ESQ.
2450 N.E. Miami Gardens Drive
Second Floor
Miami, Florida 33180
(305) 932-0550

Counsel for the Petitioner

LIST OF INTERESTED PARTIES

TRIAL JUDGE	Thomas E. Scott
PETITIONER	Rachel Kamil
UNITED STATES OF AMERICA	Andres Rivero, Esq. Linda Collins Hertz Gray Bagliebter (former) Eileen O'Connor Assistant United States Attorneys
ATTORNEY FOR PETITIONER	Alvin E. Entin, Esq. Roy J. Kahn, Esq. Paul Lazarus, Esq. Entin, Schwartz & Margules P.A.
ALLEGED VICTIMS	None

QUESTIONS PRESENTED FOR REVIEW

1. Whether the decision of the Eleventh Circuit Court of Appeals affirming the district court's allowing the disqualification of the Petitioner's attorney of choice is in direct conflict with Panduit Corp. v. All States Plastic Mfg. Co., Inc., 744 F.2d 1564 (7th Cir.1984), and Telectronics Proprietary, Ltd. v. Medtronic, Inc., 836 F.2d 1332 (2d Cir.1988).

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(i) Whether the decision of the Eleventh Circuit Court of Appeals affirming the district court's allowing the disqualification of the Petitioner's attorney violated the Petitioner's Sixth Amendment right to counsel of her choice, in direct conflict with Panduit Corp. v. All States Plastic Mfg. Co., Inc., 744 F.2d 1564 (7th Cir.1984), and Telectronics Proprietary, Ltd. v. Medtronic, Inc., 836 F.2d 1332 (2d Cir.1988).

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IN THE

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OCTOBER TERM, 1992

RACHEL KAMIL

Petitioner/Appellant,

vs.

UNITED STATES OF AMERICA,

Respondent/Appellee

PETITION FOR A WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH JUDICIAL CIRCUIT

The Petitioner, RACHEL KAMIL, petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit in this case.

OPINIONS BELOW

The Judgment of the District Court, dated March 28, 1990, is reprinted herein (App. 1-9), as is the Judgment Including Sentence Under the Sentencing Reform Act. (App. 9). The non-published opinion of the Court of Appeals for the Eleventh Circuit affirming the Judgment of the District Court in United States v. Kamil, 963 F.2d 384 (11th Cir.1992), was rendered on May 11, 1992, and is reprinted herein. (App. 13). The Order denying Petitioner's timely-filed Petition for Rehearing was rendered by the Circuit Court on July 16, 1992, and is reprinted herein. (App. 13-15). The Mandate issued on July 28, 1992. The District Court's ruling on the Government's Motion to Disqualify Counsel was rendered on July 31, 1989, and is reprinted herein. (App.).

JURISDICTION

This petition arose in the first instance from criminal charges filed in the District Court for the Southern District of Florida. The Order sentencing the Defendant rendered by the Court (App. 1-8) was appealed to the United States Court of Appeals for the Eleventh Circuit pursuant to the jurisdiction vested in the Court by 28 U.S.C. 1291.

This court has jurisdiction over this petition pursuant to 28 U.S.C. 1254.

CONSTITUTIONAL PROVISIONS, STATUTES, AND REGULATIONS INVOLVED

Constitution of the United States, Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and

cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

STATEMENT OF THE CASE

(i) Course of Proceedings and Disposition Below

On April 14, 1989, a Federal Grand Jury seated in the Southern District of Florida returned a four count indictment against the Defendant, RACHEL KAMIL. The Defendant was charged in Counts I, II, III and IV, with testifying falsely, in violation of Title 18 U.S.C. Section 1623.

The violations of federal law with which the Defendant was charged arose out of her testimony as a Defense witness in the case of United States v. Thomas Sikes, Case Number 87-6197-Cr-Ryskamp(s).

The Defendant was arraigned on April 18, 1989, and entered a Plea of Not Guilty. On July 20, 1989, the court

granted the Government's Motion to Disqualify the Firm of Entin, Schwartz, Margules & Lazarus. (R1 29,A). Subsequently, on August 15, 1989, Roy Kahn, Esquire, was appointed counsel to represent the Defendant.

On November 29, 1989, the jury rendered a verdict of guilty as to Counts I, II, and III. (On March 28, 1990, the Defendant, RACHEL KAMIL, was sentenced to serve five (5) years incarceration and was assessed $50.00. (App. 9). The Defendant, who presently remains out on bond pending appeal, timely-filed her Notice of Appeal on March 28, 1990.

(2) Statement of Facts

On July 20, 1989, the Court conducted a hearing on the disqualification of the Petitioner's attorney. The Court considered three grounds asserted by the government for disqualifying the Defendant's counsel,

Alvin Entin: 1. Conflict of interest; 2. Appearance of impropriety; and 3. The government's supposed intention to call Mr. Entin as a witness.

At the disqualification hearing, the Court obtained Ms. Kamil's waiver of any conflict of interest. The Court stated that any resolution of a conflict of interest would be subject to the Court's receipt of a waiver from Mr. Sikes, whom Mr. Entin had represented in the underlying offense. Mr. Entin then informed the Court of his belief that Mr. Sikes would no doubt give a waiver.

As to the alleged appearance of impropriety, the government's only assertion was that Mr. Entin, as counsel to Thomas Sikes, handed the Defendant a certain record book and introduced it into evidence during the Sikes trial. The record book was allegedly fabricated by the Defendant.

The government did not assert any involvement or knowledge on the part of Mr. Entin as to the alleged fabrication, or present any evidence to that effect. It merely alleged that it intended to call Entin as a witness to rebut, corroborate, or explain facts surrounding his receipt and possession of the questioned document, as well as his knowledge concerning the creation of the document.

The Court granted the government's Motion to Disqualify on July 31, 1989. The written Order did not specify which of the three grounds it relied on in making its decision. (App.).

After securing Mr. Entin's disqualification as counsel on the ground that it intended to call him as a witness at trial, the government never called him.

REASONS FOR GRANTING THE WRIT

The Sixth Amendment to the United States Constitution bestows upon a

criminal defendant the Right to Counsel. U.S.C. Const. Amend.6. This right includes the right of any accused, assuming he has the resources, to obtain counsel of his own choosing. U.S. v. Inman, 483 F.2d 738 (4th Cir. 1973). Therefore, the Defendant was denied her right to counsel of choice when her attorney was improperly disqualified.

At the time of the disqualification hearing the standards of professional responsibility state that a lawyer cannot represent a client where there is a conflict of interest unless the client consents to the conflict after consultation. Rule 1.7, ABA Model Rules of Professional Conduct, Rule 4-1.7 Rules Regulating the Florida Bar, Rule 16 (c) of the General Rules of the United States District Court for the Southern District of Florida. Thus, a client may consent to representation notwithstanding a conflict.

Model Rule 1.7 Comment 5.

In the instant case, the government alleged that there was a conflict since the Defendant's original attorney had represented Mr. Sikes on the underlying offense. As Mr. Sikes was never offered as, or suggested to be, a witness in the instant matter, or to have any other involvement with this prosecution, no real or apparent conflict based on separate representation existed.

However, the Defendant knowingly, intelligently and voluntarily consented to waive any alleged conflict at the disqualification hearing. Additionally, the Court was placed on notice that Mr. Sikes would also give his consent. Therefore, the disqualification of the Defendant's counsel of choosing could not be properly premised on a conflict of interest.

In light of the government's failure

to specifically identify any impropriety on the part of Mr. Entin, or to call him as a witness, the motivation behind the government's motion to disqualify, rather than an attempt to facilitate the administration of justice, was the government's intention to harass. The government's sole motivation in moving to disqualify Mr. Entin was not to safeguard judicial integrity, but rather to remove the attorney most familiar with the instant facts and the attorney most capable of representing the Defendant.

The appearance of impropriety is not a ground for disqualifying a lawyer under the Model Rules of Professional Conduct. Waters v. Kemp, 845 F.2d 260, 265 (11th Cir. 1988). The appearance of impropriety was only a ground for disqualification under the old Model Code of Professional Responsibility. Cannon 9, Model Code. The Model Code has been replaced by the

Model Rules and thus does not govern the professional conduct of attorneys in the Southern District of Florida.

As to the disqualification of an attorney based on the grounds he will be called as a witness, Rule 3.7 of the ABA Model Rules of Professional Conduct applies.

Model Rule 3.7 states:

> (a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness except where:
>
> (1) the testimony relates to an uncontested issue;
>
> (2) the testimony relates to the nature and value of legal services rendered in the case; or
> (3) disqualification of the lawyer would work substantial hardship on the client.
>
> (b) A lawyer may act as advocate in a trial in which another lawyer in the lawyer's firm is likely to be called as a witness unless precluded from doing so by rule 1.7 or rule 1.9.

First, Mr. Entin was not a necessary

witness. All that Mr. Entin could have possibly testified to was that: 1. Mr. Entin was Ms. Kamil's attorney; 2. Mr. Entin learned of the existence of the record book from Sharon Sikes approximately ten days before the Sikes trial; 3. Mr. Entin met Ms. Kamil for the first time in the courthouse hallway twenty minutes before she was to testify in the Sikes trial; and 4. Mr. Entin handed the record book to Ms. Kamil as he introduced it into evidence.

Any number of people could have testified to the first and last facts listed above, and Sharon Sikes could have testified to the second and third facts stated above. Additionally, since the above list includes all the information Mr. Entin had personal knowledge of, this is all he could have testified to.

Furthermore, the government never even called Mr. Entin as a witness.

Though the defense did call Mr. Entin as a witness, this was done only for purposes of convenience and efficacy. Other witnesses were available to testify. Therefore, Mr. Entin was not a necessary witness and thus, could not have been properly disqualified pursuant to Model Rule 3.7.

Second, all the testimony Mr. Entin could have supplied the Court would have been uncontested. This serves as another reason Mr. Entin could not have been properly disqualified under Model Rule 3.7. Model Rule 3.7 (a)(1).

Third, it was not foreseeable that Mr. Entin would be called as a witness. As aforementioned, his testimony was not necessary. Foreseeability is relevant to whether disqualification of an attorney works a substantial hardship on the defendant. Model Rule 3.7 Comment n.4.

Thus, the disqualification of Mr.

Entin would have, and did, work a substantial hardship on the Defendant. The Defendant was forced to retain another attorney and not permitted access to the counsel of her choice, the counsel most familiar with the Petitioner's case.

The Defendant had developed strong confidence in Mr. Entin which became only more evident when she choose Mr. Entin to represent her in her appeal, and in pursuing this Petition.

Finally, a lawyer may act as advocate in a trial in which another lawyer in the lawyer's firm is likely to be called as a witness so long as Model Rules 1.7 and 1.9 do not preclude him. Model Rule 3.7 (b). Assuming Mr. Entin was "likely to be called as a witness" neither Model Rule 1.7 nor Model Rule 1.9 would have precluded him.

The Petitioner asserted that Paul Lazarus, another attorney in Mr. Entin's

law firm at the time of the disqualification hearing, would be prepared to represent the Defendant. Thus, the disqualification of Mr. Entin's entire law firm further prejudiced the Petitioner.

The decision of the Court of Appeals for the Eleventh Circuit is in direct conflict with decisions in three other circuits. In Panduit Corp. v. All States Plastic Mfg. Co., 744 F.2d 1564 (Fed.Cir.1984), which applied Seventh Circuit law to the case, the Court noted that the Seventh Circuit "considers the right of a party to select counsel of his choice to be a matter of significant importance, which will not be disturbed unless a specifically identifiable impropriety *has occurred*. See also *Whiting Corp. v. White Machinery Corp.*, 567 F.2d 713 (7th Cir.1977)(no disqualification). A disqualification

order discredits the bar generally and the individual attorneys particularly. Thus, while there can be no hesitation to disqualify where impropriety *has occurred*, as in the cases cited by the parties upholding disqualification--namely, *Schiessle v. Stephens*, 717 F.2d 417 (7th Cir.1983), and *LaSalle National Bank v. County of Lake*, 703 F.2d 252 (7th Cir.1983), judges must exercise caution not to paint with a broad brush under the misguided belief that coming down on the side of disqualification raises the standard of legal ethics and the public's respect. The opposite effects are just as likely--encouragement of vexatious tactics and increased cynicism by the public." Panduit, supra., 744 F.2d 1564, 1576-7.

In the instant case, the government never even alleged impropriety on the part of Mr. Entin. Nor did it in good faith intend to call him as a witness. The sole

purpose of the motion to disqualify was to harass the Petitioner and to impair her right to the counsel of her choice. See Freeman v. Chicago Musical Instrument Company, 689 F.2d 715 (7th Cir.1982).

Similarly, in Telectronics Proprietary, Ltd. v. Medtronic, Inc., an attempt was made to disqualify the attorneys for one of the parties. The gravamen of the motion to disqualify was that the attorneys "ought" to be called as witnesses.

This, in essence, was the claim made by the government in the instant case. Despite this claim, however, it made no attempt to call the attorney as a witness. It had accomplished its goal by removing him from the case.

CONCLUSION

For all of the foregoing reasons, the Petition for Writ of Certiorari should be granted.

Respectfully Submitted,

ALVIN E. ENTIN, ESQUIRE
Entin, Schwartz & Margules, P.A.
2450 N.E. Miami Gardens Drive
Second Floor
Miami, Florida 33180
(305) 932-0550

APPENDIX

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 89-195-CR-SCOTT

UNITED STATES OF AMERICA,

vs.

RACHEL KAMIL.

_____/

ORDER

This cause is before the Court for sentencing of Rachel Kamil. The Defendant was convicted of three counts of perjury pursuant to 18 U.S.C. § 1623. Under the Sentencing Guidelines, the Court must first determine the base offense level to be assigned to the Defendant's conduct. Kamil was convicted of perjuring herself in the trial of Thomas Sikes and other defendants charged with a complex narcotics conspiracy. Under the guideline for perjury, section 2J1.3, if the perjury charges relate to a criminal offense, the Court must apply section 2X3.1, Accessory after the Fact. That section directs the

Court to deduct six levels from the base offense level for the underlying offense.[1]

Sikes was convicted of conspiracy to import and conspiracy to possess with intent to distribute at least one kilogram of cocaine. Under the Guidelines, the base offense level would be determined by the quantity of cocaine involved in the conspiracy, based on the trial evidence. Guideline § 2D1.4. However, because this was a pre-Guidelines offense, Sikes' base offense level has never been computed under the Guidelines. Moreover, the parties agree that the sentencing court must make an independent finding of the amount of narcotics involved in the conspiracy pursuant to United States v. Castellanos, 882 F.2d 474 (11th Cir. 1989). However, the Court is unable to do so, because Sikes was tried and sentenced

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[1] In no event should the base offense level be less than four or more than thirty. Sentencing Guidelines § 2X3.1.

before another judge in this district, Judge Ryskamp.[2]

Moreover, the Government's computation of the guideline sentence for Kamil as an accessory after the fact would be grossly disproportionate to the sentences imposed on the defendants in the underlying action. The Government contends that the underlying offense involved over 1300 kilograms of cocaine, which would result in a base offense level of 30 (i.e. 36 levels minus 6 levels pursuant to section 2X3.1), with a two point adjustment for obstruction of justice, yielding a guideline range of 121-151 months. Sikes and his codefendants received the following sentences:

---

[2] The Government would have the Court conduct a full evidentiary hearing on the issue. However, this would require the Court to disregard the jury findings and retry the entire conspiracy. We do not believe that either Congress or the Commission envisioned this result.

Thomas D. Sikes	Thirty-six years in prison and a fine of one million dollars
Charles McVadon	Seven years in prison
Tom Colwell	Ten years in prison
Kenny Sadler	Five years probation
Ernest Lumpkin	Five years in prison
Glenn Speck	Fugitive
Norman Speck	Not guilty
Charles Craig	Six years in prison
Robert Bradley	Retrial pending
Dennis Kay	Ten years in prison
Dwane Smith	Six months in prison and three years probation
Eric Reinertsen	Six months in prison and five years probation
Donald Wilson	Thirteen years in prison
John Weaver	Six years in prison
Herman Harley Wilson	42 months in prison
Robert Fowlkes	Six months in prison and three years probation
Robert McVadon	Six months in prison and three years probation

Robert Reinertson	Six years in prison
Francis Scara	Seven years in prison
Alfredo Costello	Six months in prison and five years probation
Charles Sajdak	Five years probation

It would be manifestly unjust to impose a twelve year sentence on a defendant for perjury as an accessory after the fact when many of the co-conspirators were sentenced to five year terms or less. Indeed, some of the co-conspirators received probation. To permit this disparity would be contrary to the purpose of the Guidelines which is to foster uniformity and proportionality in sentencing. Sentencing Guidelines, Part A.1.2. Congress expected the district court to exercise its departure powers in such a case.[3] As the Fourth Circuit

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[3] Prior to the Guidelines, a sentencing court had discretion to consider codefendants' sentences when imposing sentence on the defendant, See, e.g., United States v. Goot, 894 F.2d 231,

explained: "[W]e of course recognize that the Sentencing Reform Act contemplates the use of the § 3553(b) 'departure power' to remedy 'unwanted sentence disparities among defendants with similar records who have been found guilty of similar conduct.' 18 U.S.C. § 3553(a)(6). . . . Indeed, the district court here did in fact grant a 67-month 'downward departure' to ameliorate the manifest disparity between the guidelines range applicable in [the defendant's] case and the comparatively short sentences the court had earlier imposed for [the codefendants]."

United States v. Daly, 883 F.2d 313, 319 (4th Cir. 1989).

The Court will therefore consider the

1237 (7th Cir.1990); United States v. Juarez-Ortega, 866 F.2d 747, 749 (5th Cir. 1989), although the court was not obligated to do so. United States v. Castillo-Roman, 774 F.2d 1280, 1283-84 (5th Cir.1985).

entire record for the purpose of imposing a sentence that will best "reflect the seriousness of the offense, . . . promote respect for the law, and provide just punishment for the offense." 18 U.S.C. § 3553(a)(2). The Defendant committed perjury in a major cocaine conspiracy trial involving multiple defendants. She has no criminal history. However, Kamil also attempted to use false evidence at her own trial. Based on these factors, and considering the sentences imposed on the co-conspirators in the underlying offense, the Court finds that a statutory maximum sentence is appropriate.

Accordingly, it is hereby ORDERED that the Defendant shall be remanded to the custody of the Bureau of Prisons for a term of five (5) years. See 18 U.S.C. § 1623.

DONE and ORDERED in Chambers, at Miami, Florida this 20th day of March,

1990.

/s/ Thomas E. Scott
UNITED STATES DISTRICT JUDGE

Copies mailed to:

Andres Rivero, AUSA
Roy Kahn, Esq.

UNITED STATES DISTRICT COURT

Southern District of Florida

JUDGMENT IN A CRIMINAL CASE UNDER THE SENTENCING REFORM ACT

CASE NUMBER: 89-195-CR-SCOTT (01)
AUSA Andres Rivero

UNITED STATES OF AMERICA

V.

RACHEL KAMIL
(TN: Rachel Pat Hopewell Kamil)
Reg. #34587-004
DOB: 1/7/54

Roy Kahn Esq (305-358-7400)
#801,799 Brickell Plaza, Miami,FL 33131
Defendant's Attorney

(Name of Defendant)

THE DEFENDANT:

___ pleaded guilty to count(s)_____

_x_ was found guilty on count(s) one, two and three after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section
18:1623

Nature of Offense
False declarations before the Court, a class D felony

Count Number(s)

one
two
three

The defendant is sentenced as provided in pages 2 through 2 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

___ The defendant has been found not guilty on Count(s)_____
and is discharged as to such count(s).

x Count(s) four (is dismissed on the motion of the defendant pursuant to Rule 29

___ The mandatory special assessment is included in the portion of this Judgment that imposes ia fine.

x It is ordered that the defendant shall pay to the United States a special assessment of $150 , which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of residence or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Defendant's Soc. Sec. Number.
238-48-6217 March 28, 1990
Date of Imposition of Sentence

Defendant's mailing address:

3017 Oaktree Lane
Hollywood, Florida 33021

/S/Thomas E. Scott

Signature of Judicial Officer
THOMAS E. SCOTT
UNITED STATES DISTRICT JUDGE
Name & Title of Judicial Officer

Defendant's residence address:
same as above

Date

Defendant: RACHEL KAMIL
Case Number: 890195-CR-SCOTT(01)

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of FIVE (5) YEARS.

x The Court makes the following recommendations to the Bureau of Prisons:

incarceration at a minimum security facility in Florida, Marianna, Florida

___ The defendant is remanded to the custody of the United States Marshal.

___ The defendant shall surrender to the United States Marshal for this district,

__ at____a.m./p.m. on _____.

__ as notified by the Marshal.

x The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons

__ before 2 p.m. on _____.

xx as notified by the United States Marshal.

__ as notified by the Probation Office.

NOTE: defendant's bond has been continued for purposes of appeal.

RETURN

I have executed this Judgment as follows:

_____

_____

_____

_____

Defendant delivered on_____to _____at _____, with a certified copy of this judgment.

_____
United States Marshal

By_____
Deputy Marshal

DO NOT PUBLISH

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 90-5317

D. C. Docket No. 89-195-Cr-TES

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RACHEL KAMIL,
TN: Rachel Pat Hopewell Kamil,

Defendant-Appellant.

Appeal from the United States District Court for the Southern District of Florida

---

(May 11, 1992)

Before HATCHETT and EDMONDSON, Circuit Judges, and HILL, Senior Circuit Judge.

PER CURIAM:

Defendant Rachel Kamil was convicted for committing perjury at the criminal trial of her employer, Thomas Sikes. Sikes' lawyer, Alvin Entin, had called

Kamil to the stand to testify that she had kept a receipt book showing that a drug trafficker had paid rent for the use of a warehouse owned by Sikes. This would have contradicted the government's contention that Sikes controlled that warehouse and was thus responsible for the cocaine stored there. Unfortunately for Kamil, the United States Attorney's office discovered that the particular receipt book that Kamil brought to the stand and entered into evidence had not been manufactured until after the time the receipts were allegedly made. The government indicted Kamil for perjury.

Initially, Kamil was represented by Entin, the same lawyer who had called her to the stand when she testified about the receipt book. Kamil challenges the district court's subsequent disqualification of Entin, the lawyer of her choice. As of the time the district

court disqualified this lawyer, it was easily foreseeable that this lawyer would be a necessary witness in Kamil's perjury trial. See Model Rules of Professional Conduct Rule 3.7 (1983). It would have been obvious to the district court that Entin had "crucial information which must be divulged." Universal Athletic Sales Co. v. American Gym, Recreational & Athletic Equipment Corp., 546 F.2d 530, 538-539 n.21 (3rd Cir.1976), cert. denied. 430 U.S. 984 (1977). The act of the district judge in disqualifying this attorney was not error.

We have carefully reviewed the record and the briefs, and none of the other issues have any merit or warrant any discussion.

AFFIRMED.

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH Circuit

No. 90-5317

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RACHEL KAMIL,
TN: Rachel Pat Hopewell Kamil

Defendant-Appellant.

On Appeal from the United States District Court for the Southern District of Florida

---

ON PETITION(S) FOR REHEARING AND SUGGESTION(S) OF REHEARING EN BANC

Before: HATCHETT and EDMONDSON, Circuit Judges, and HILL, Senior Circuit Judges.

PER CURIAM:

(X) The Petition(s) for Rehearing are DENIED and no member of this panel nor other Judge in regular active service on the Court having requested that the Court be polled on rehearing en banc (Rule 35, Federal Rules of Appellate Procedure; Eleventh Circuit Rule 35-5), the Suggestion(s) of Rehearing En Banc are DENIED.

( ) The Petition(s) for Rehearing are DENIED and the Court having been polled at the request of one of the members of the Court and a majority of the Circuit Judges who are in regular active service not having voted in favor of it (Rule 35, Federal Rules of Appellate Procedure; Eleventh Circuit Rule 35-5), the Suggestion(s) of Rehearing En Banc are also DENIED.

( ) A member of the Court in active service having requested a poll on the reconsideration of this cause en banc, and a majority of the judges in active service not having voted in favor of it, Rehearing En Banc is DENIED.

ENTERED FOR THE COURT

/S/ Joseph A. Hatchett
UNITED STATES CIRCUIT JUDGE

UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 90-5317

D.C. Docket No. 89-195-Cr-TES

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RACHEL KAMIL,
TN: Rachel Pat
Hopewell Kamil,

Defendant-Appellant

Appeal from the United States District Court for the Southern District of Florida

Before HATCHETT and EDMONDSON, Circuit Judges, and HILL, Senior Circuit Judge.

JUDGMENT

This cause came to be heard on the transcript of the record from the United States District Court for the Southern District of Florida, and was argued by counsel;

ON CONSIDERATION WHEREOF, it is now hereby ordered and adjudged by this Court that the judgment of conviction of the said District Court in this cause be and the same is hereby AFFIRMED.

Entered: May 11, 1992
For the Court: Miguel J. Cortez, Clerk

By: /S/ Karen McNabe
Deputy Clerk

ISSUED AS MANDATE: Jul 28 1992